

not sign and return the waivers within the time allotted under Rule 4(d)(2). *Id.* at ¶¶ 6-11. Plaintiff subsequently obtained personal service on the Individual Defendants on February 15, 2023. (ECF Nos. 14, 15). Plaintiff filed an amended complaint on March 17, 2023. (ECF No. 22). Defendants waived service of the amended complaint the same day. (ECF Nos. 24, 25).

Discussion

Plaintiff asserts that he is entitled to recover the costs and attorney's fees associated with obtaining personal service on the Individual Defendants.

Rule 4 of the Federal Rules of Civil Procedure provides that a plaintiff may request a waiver of service from any defendant. Fed. R. Civ. P. 4(d)(1). To do so, the plaintiff must notify the defendant of the action and request waiver of service from the defendant. *Id.* A defendant within the United States has 30 days to return the waiver. *Id.* If a defendant fails to do so without good cause, the court must impose on the defendant the expenses later incurred in making service as well as the reasonable expenses, including attorney's fees, of any motion required to collect service expenses. Fed. R. Civ. P. 4(d)(2).

Defendants state that their counsel called Plaintiff's counsel on February 15, 2023—before the Individual Defendants had been personally served—and informed Plaintiff's counsel that the Individual Defendants would waive service. *Id.* During the same call, Defendants' counsel asked Plaintiff's counsel to send the waivers via email. *Id.* Plaintiff's counsel did not do so. *Id.* The Individual Defendants returned the waiver six days after the deadline. *Id.*

The Individual Defendants do not dispute the propriety of Plaintiff's request or the tardiness of the waivers. (ECF No. 28). The Individual Defendants instead argue that there was good cause for their delay because they were required to get approval from their supervisors before requesting representation from the City Counselor's Office. *Id.*

The Court finds that good cause exists for the Individual Defendants' failure to timely return the waivers. The Individual Defendants were required to undertake certain procedural steps before they could sign and return the waivers. The Individual Defendants signed representation agreements with the City Counselor's Office on February 14, 2023, and contacted Plaintiff's counsel the next day. *Id.* Further, when Plaintiff filed his Amended Complaint on March 17, 2023, the Individual Defendants immediately waived service. (ECF Nos. 22, 24, 25). Simply put, it appears the delay in returning the waivers was the result of the Police Department's policies, not a desire on the part of the Individual Defendants to impose unnecessary costs on Plaintiff. Under the circumstances, it is reasonable that the Individual Defendants waited to return the waivers until after they had spoken with their supervisors and counsel.

Conclusion

For the foregoing reasons, the Court will deny Plaintiff's motion.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff's motion for attorney's fees and costs under Rule 4(d)(2) is **DENIED**. (ECF No. 26).

A handwritten signature in cursive script that reads "Ronnie L. White". The signature is written in black ink and is positioned above a horizontal line.

RONNIE L. WHITE

UNITED STATES DISTRICT JUDGE

Dated this 12th day of May, 2023.